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S E C R E T SECTION 01 OF 03 SANAA 001411

SIPDIS

DEPARTMENT FOR L/LEI, S/CT
DOJ FOR DAAG BRUCE SWARTZ
RIYADH FOR LEGATT

E.O. 12958: DECL: 06/19/2013

TAGS: [PTER](#) [PREL](#) [ASEC](#) [PGOV](#) [KJUS](#) [YM](#) [TERFIN](#)

SUBJECT: MOAYED: ROYG MAKES AN 11TH HOUR APPEAL

REF: A. SANAA 1256

- [1](#)B. SANAA 581
- [1](#)C. SANAA 518
- [1](#)D. SANAA 482
- [1](#)E. BERLIN 406
- [1](#)F. SANAA 127
- [1](#)G. BERLIN 131
- [1](#)H. SECSTATE 7011

Classified By: Charge D'Affaires Alan G. Misenheimer for Reason 1.5 (b, d)

- [1](#)1. (U) This is an action request - see paragraph 13.
- [1](#)2. (S/NF) Begin summary: Yemen has launched an aggressive 11th hour campaign for the return of Sheikh Mohamed Ali al-Moayed, now awaiting an extradition ruling in Germany on charges of support for terrorist organizations. After raising the case with FBI Mueller on June 2, the ROYG dispatched two high level envoys to Germany on 6/17. On 6/18, FM Qirbi called in the Charge to appeal for Moayed's return to Yemen for prosecution in lieu of extradition to the US, citing his age, poor health, political naiveté, high national standing as a cleric and philanthropist, and the growing 'street' conviction that he has been judicially kidnapped by the FBI. Also on 6/18, a close advisor to ROYG President Saleh contacted the Charge to convey Saleh's personal request for Moayed's return to Yemen and a proposal for a joint U.S./Yemeni investigation in Sanaa. Saleh is traveling to Germany later this week and has requested a response before he departs Yemen. End summary.
- [1](#)3. (S/NF) With the German ruling on Sheikh Mohammed Ali al-Moayed's extradition to the US imminent, the ROYG has mounted an intense effort to bring Moayed back to Yemen. That effort is spurred by pressure from Islah, the conservative Muslim opposition party, as well as a growing media campaign and high-level appeals to President Saleh in support of the Sheikh. President Saleh, who personally authorized funds for Moayed's defense team in Germany, raised the case with visiting FBI Director Mueller on June 2, saying that ROYG considers Moayed a businessman, not a terrorist (ref A). Saleh suggested that the U.S. have the CIA and FBI investigate Moayed's activities, and, when the investigation is over, the U.S. should turn Moayed over to ROYG to perform its own investigation. Director Mueller assured President Saleh that significant evidence of links to terrorist financing have been collected against Moayed and the case against him is quite strong.
- [1](#)4. (U) With the extradition decision expected later this month, President Saleh ordered Isma'il Ahmad al-Wazir and Abdallah Ahmad Ghanim, members of his Shura (Consultative) Council, to travel to Germany on 6/17 to follow the case of Moayed and his assistant, Mohammed Zayad. According to Saba, the official news agency, the two envoys will join Moayed's defense team and offer legal evidence to prove the defendant's "incorruptibility."
- [1](#)5. (C) During a 6/18 meeting held at FM Qirbi's behest, the Charge was informed of ROYG's concern over a letter from Moayed's lawyers in Germany complaining about their inability to review U.S. provided evidence against their clients. Qirbi said he discussed this concern with the German Ambassador on June 17 and delivered a diplomatic note (text paragraph 15). The Foreign Minister noted ROYG is focusing on the political as well as legal aspects of this case. Many Yemenis view Moayed as a religious, charitable leader. Qirbi voiced ROYG fears Moayed's extradition to the U.S. will derail ROYG efforts to enlist popular support for the war against terror, and could destabilize the country.
- [1](#)6. (C) Qirbi suggested that Yemen, Germany, and the U.S. could get together to work this out, in lieu of proceeding with the extradition. He believes that, even if Moayed had contact with terrorist organizations, he probably didn't know what he was doing. Referring to the U.S. "entrapment" of Moayed, Qirbi commented dryly that he is clearly easily duped and misled.
- [1](#)7. (C) In response, the Charge assured Qirbi that he would

relay the ROYG's concerns to Washington. He noted that this is not a personal attack against Moayed, as it has been portrayed in the local press, but part of a worldwide initiative to disrupt terrorist funding. Asked if the ROYG had informed Moayed's supporters of the various assurances on Moayed requested by Germany and provided by the USG, Qirbi replied in the affirmative. These assurances were an important positive element, he said, but not enough.

18. (C) With the extradition ruling expected soon, the Charge highlighted the importance of sharing information in the coming days. Moayed's defense team should urge him to begin cooperating fully with U.S. investigators, especially by providing full details of fund-raising in the U.S. Qirbi agreed, but added that, if information, including information on terrorism, was the major goal, it would be better for Moayed to be interrogated in Germany by U.S. and Yemeni security. He would be more cooperative in those circumstances than if he were taken to the U.S.

19. (C) Qirbi further noted that the defense team was concerned about Moayed's deteriorating health, which has also been cited in recent press reports. He asked that we confirm or deny this information.

110. (C) At 10:00pm on 6/18 Mohamed Sudam, personal advisor and translator to President Saleh called the Charge to convey "an urgent personal message from President Saleh to the U.S. Administration". The message (text para 14) is urgent -- Saleh travels to Germany on Friday June 20 and Moayed is among his top concerns.

111. (C) Comment: These unusual late night demarches immediately follow Qirbi's strong pitch to Charge earlier in the day. The structure and phrasing of this evening's message (para 14), no less than the fact that it was delivered by the President's go-to adviser for dealings with the Americans, indicates that it really is a personal message from Saleh.

112. (C) Comment continued: The suggestion that the U.S. interrogate al-Moayed in Germany, or, even better, return him to Yemen for prosecution, reflects Saleh's genuine worry over domestic consequences if Moayed is sent to the U.S. It also reflects his strong belief that political problems are best handled by personal negotiations, not by impartial judicial proceedings. For Saleh, the weight of evidence against Moayed is easily balanced by the political consequences of angry domestic reaction as well as the increased economic devastation that would follow another terrorist attack against US or German interests. End comment.

113. (C) Action Requested: Please advise if it will be possible to provide Post with a NIACT reply by COB 6/19 on: 1) Response to Saleh's request that Moayed be returned to Yemen; 2) ROYG request that Moayed be interrogated in Germany; and/or 3) an update on Moayed's health condition. Charge told Qirbi on 6/18 that the best way to transform this case constructively would be for Moayed himself to cooperate with U.S. investigators seeking information on fund-raising in the U.S. Post offers this as a possible point for inclusion in a U.S. reply to Saleh.

114. (C) Text of President Saleh's 6/18 personal message to the U.S. Administration:

(Begin text)

President Saleh submits his personal request that al-Moayed be released and handed over to Yemen. This is justified because he was not involved in terrorist acts. If he had been, Yemen would be the first to investigate him, arrest him and break his head (sic).

After his return to Yemen, he would be kept under arrest. There could be a joint U.S.-Yemeni investigation. If the USG wishes, Germany could also participate.

This question is being submitted in the common interest of Yemen and the United States.

The President will leave for Germany in the next two days, and hopes to receive a positive answer from the U.S. side prior to his departure.

(End Text)

115. (C) Text of ROYG's June 17, 2003 diplomatic note to the German Embassy:

(Begin text)

No.: 1/144/102/1315
Date: June 17, 2003

Republic of Yemen
Ministry of Foreign Affairs
Minister's Office

The Ministry of Foreign Affairs of the Republic of Yemen presents its best compliments to the Embassy of the friendly Germany in Sana'a.
In reference to the subject of the two Yemen citizens Mohamed Ali Hasan al-Maiad and his companion, the Ministry could not understand the deprivation of the defense lawyers of the two arrested Yemeni citizens, requested for extradition by the United States of America, from knowing the decisively important records in connection of the evaluation of the U.S. request of their extradition. The Ministry could not either understand the uncertainty of the legal prosecution that deprives the two-mentioned lawyers from knowing the referred records. On the basis of all these uncertainties expressed, the Yemeni party has inquired the details of the subject once again in a way that allows it to corroborate what is mentioned as follows:

The U.S. request for extradition is basically founded on extracted information according to the information mentioned in the request of the U.S. including audio records and recorded video tapes in Frankfurt. These records, judging upon the circumstances in which they were taken and the permission of their transforming to be in U.S.'s possession must, logically and legally speaking, be submitted by German authorities. Therefore, the legal interest of the two Yemeni citizens, without any additional explanation, is not obviously guaranteed to be fairly and objectively handled unless the defense lawyers have the access to find out the information the records contain. These lawyers were not able to do so although they frequently requested to find out the information the records contain whether from the concerned authorities or even getting the records from these authorities, having a look at them and eventually returning them back later. In addition, these lawyers were not informed even of the names of proper authorities that keep the records and the reference number that these files carry. What these lawyers know is only reference number that enables them to ask for a legal assistance from the Public Prosecution in the Regional Frankfurt Court. The number of the reference is 9409AR204640/02. That file does not contain, according to the Public Prosecution, any reports regarding the records conducted while the two Yemen citizens were subjected to monitoring. In addition, the request of the two defense lawyers to find out what the file with the mentioned reference contains was not responded to.

The Yemeni party sees what is going on as a quite striking fact when the defense lawyers were deprived in such a way to go ahead and defend the two Yemeni citizens.

The government of the Yemen would like to mention here what was mentioned in the note received from the lawyer Mr. Klaus Gunter Newman dated March 27, 2003 that requests the return of the two Yemeni citizens to their country instead of that practice that represents a violation of the International Law. The government of Yemen renews its request of the return of the two Yemeni citizens and handing them over to Yemen.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the friendly German Republic its best respect and highest appreciation.

To: The Embassy of Germany
Sana'a

(End text)

MISENHEIMER